

DATE OF MEETING July 26, 2021

AUTHORED BY NANCY SKEELS, PROPERTY AGENT, REAL ESTATE

SUBJECT PROPERTY DISPOSITION – 4176A WELLESLEY AVENUE

## **OVERVIEW**

### **Purpose of Report**

To obtain Council approval for the disposition of City-owned land at 4176A Wellesley Avenue to the owners of 4176 Wellesley Avenue.

### **Recommendation**

That Council:

1. approve the property disposition of 4176A Wellesley Avenue for \$100,000 to Michael McKillican and Michelle Peakman; and
2. authorize the Mayor and Corporate Officer to execute the Purchase and Sale Agreement.

## **BACKGROUND**

For years, many private property improvements have encroached upon the Lake Road right-of-way (the Loudon Walkway). The encroachment issues arose prior to the City's amalgamation in 1975, when the Wellington Improvement District did not undertake building inspections. As a result, parts of houses, decks, sheds, and private landscaping fronting Long Lake ended up encroaching on Lake Road. A private concrete driveway and retaining wall were also constructed on a portion of 102<sup>nd</sup> Street.

Staff have worked for over two decades to rectify the encroachment issues and have met numerous times with the private property owners along the Loudon Walkway between Victoria Avenue and Wellesley Avenue, and the majority of those property owners are willing to purchase the encroachment areas.

These efforts continued in May 2017 when Council provided approval in principle to close a portion of Lake Road (Loudon Walkway) through the road closure bylaw process and to dispose of the road area to the adjacent property owners on Wellesley Avenue and Victoria Avenue. Staff proceeded to have a survey plan prepared, as it was required for the road closure bylaw, and on 2017-DEC-04, Council adopted "Highway Closure and Dedication Removal (Lake Road and a portion of 102<sup>nd</sup> Street) Bylaw 2017 No. 7246". As a result of the road closure, eight fee-simple titles were raised and are under the ownership of the City.

A ten-meter section, from the boundary of Long Lake and the property lines, was retained as a buffer area to the lake and is dedicated park for the Loudon Walkway, 2 Lake Road, Attachment A. This buffer contains the Loudon Walkway soft-surface trail and is consistent with the Loudon Park Plan.

At the 2018-JAN-15 “In Camera” Council meeting, Council confirmed direction to dispose of these newly-created lots subject to individual appraisals and negotiations with each property owner. To date, one owner at 4134 Wellesley Avenue has purchased the lot fronting their property, and seven City-owned lots remain to be sold.

## **DISCUSSION**

Staff have received an offer to purchase from Michael McKillican and Michelle Peakman (the “Owners”) of 4176 Wellesley Avenue to purchase two of the City-owned parcels addressed as 4176A Wellesley Avenue (Lots 5 and 6, the “Property”, Attachment B).

Part of the Owners’ house, deck, garage, retaining wall, landscaping, and driveway encroaches 283sq.m. (3,060 sq. ft.) onto the City-owned lots. The Owners wish to rectify the encroachments by purchasing the Property subject to receiving an approved Development Variance Permit for their property fronting the City’s Lot 5.

An update to the appraisal has been prepared by an independent appraiser and the market value for the Property was determined to be \$100,000. The Owners have submitted an offer to purchase for this amount.

### **Lot 5 – Development Variance Permit**

The Owners wish to purchase Lot 5 to rectify the encroachments and also consolidate it with their vacant lot that fronts Lot 5. After consolidation, the Owners are proposing to build a single-family residential dwelling. The Owners are proposing a front yard setback of 2.0m in order to construct the dwelling. This represents a variance of 2.5m, and the Owners have applied for a Development Variance Permit as a condition to the purchase of Lot 5. The Development Variance Permit is being presented to Council tonight under a separate report for Council’s consideration.

If Council’s approval is received, the Owner’s have requested that Lot 5 be transferred on 2021-SEP-15.

### **Lot 6 – Encroachment Removals**

In order for the Owner to accomplish the proposed construction of the single-family residence on Lot 5, the Owners will need to remove the existing driveway to the carport and garage for the house located on 4176 Wellesley Avenue. Through a new driveway access permit, they will relocate the driveway to the front of the house. They will also remove part of the existing garage and shed in order to satisfy the new side yard setback. Once part of the garage and current driveway access is removed, Lot 6 will be consolidated with their lot that the house is located on, and the remaining house and deck encroachment will be rectified (Attachment C). If Council’s approval is received, the Owner’s have requested that Lot 6 be transferred on 2021-NOV-24.

There will be no changes to the public’s enjoyment of the Loudon Walkway as a result of the Property disposition.

At the 2021-JUN-21 “In Camera” Council provided approval in principle to dispose of City-owned land at 4176A Wellesley Avenue for \$100,000 to the Owners of 4176 Wellesley Avenue. A Notice of Disposition has now been published and Council approval is being sought to authorize the Purchase and Sale Agreement.

## **FINANCIAL CONSIDERATIONS**

The Property has an appraised market value of \$100,000. The Owners have submitted an offer of \$100,000. The Owners will also be responsible for all legal and surveying costs, and costs to publish the required notices and taxes. Costs are estimated at \$4,400. The funds from the disposition of the Property will go back into the Property Sales Fund and can be used to support other Council property acquisitions.

Should Council deny the disposition, the City will not receive \$100,000 from the sale of the Property and the City will continue to collect \$25.00 from the annual encroachment fees paid by the Owners.

## **OPTIONS**

1. That Council:
  1. approve the property disposition of 4176A Wellesley Avenue for \$100,000 to Michael McKillican and Michelle Peakman; and
  2. authorize the Mayor and Corporate Officer to execute the Purchase and Sale Agreement.
    - Advantages: Providing approval would be consistent with the previous Council’s decision and it will rectify the encroachment issues.
    - Disadvantages: The City would no longer maintain ownership of the Property should Council decide to direct Staff to use the Property for a different use in the future.
    - Financial Implications: The City will receive \$100,000 from the property disposition.
2. That Council deny the disposition of 4176A Wellesley Avenue to Michael McKillican and Michelle Peakman.
  - Advantages: The City would maintain ownership of the Property and Council could decide to direct Staff to use the Property for a different use in the future. The Owners have an annual encroachment agreement where they have insurance for the encroachments and use of the Property and denying approval would not change this agreement. Staff time will not be required.
  - Disadvantages: The City has a willing purchaser to rectify the encroachments and the opportunity may not present itself again. The encroachments will remain. Denying approval to the property disposition would be inconsistent with the previous Council’s decision.
  - Financial Implications: The City will continue to collect the \$25.00 annual encroachment fee.

### **SUMMARY POINTS**

- For years, many private property improvements have encroached upon the Lake Road right-of-way (the Loudon Walkway). The encroachment issues arose prior to the City's amalgamation in 1975, when the Wellington Improvement District did not undertake building inspections. As a result, parts of houses, decks, sheds, and private landscaping fronting Long Lake ended up encroaching on Lake Road.
- Staff have worked for over two decades to rectify the encroachment issues and have met numerous times with the private property owners along the Loudon Walkway between Victoria Avenue and Wellesley Avenue, and the majority of those property owners are willing to purchase the encroachment areas.
- Staff have received an offer to purchase from Michael McKillican and Michelle Peakman (the "Owners") of 4176 Wellesley Avenue to purchase two of the City-owned parcels 4176A Wellesley Avenue for the appraised market value of \$100,000.
- Part of the Owners' house, deck, garage, retaining wall, landscaping and driveway encroaches 283 sq. m. (3,060 sq. ft.) onto the City-owned lots. The Owners wish to rectify the encroachments by purchasing the Property subject to receiving an approved Development Variance Permit for their property fronting Lot 5 and the City's Lot 5.
- The Development Variance Permit is being presented to Council tonight under a separate report for Council's consideration.
- A Notice of Disposition has now been published and Council approval is being sought to authorize the purchase and sale agreement for 4176A Wellesley Avenue.
- There will be no changes to the public's enjoyment of the Loudon Walkway as a result of the Property disposition.

### **ATTACHMENTS:**

ATTACHMENT A: Loudon Walkway

ATTACHMENT B: Location Plan

ATTACHMENT C: Existing garage and new driveway location

#### **Submitted by:**

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#### **Concurrence by:**

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Director, Finance

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